

### REMARKS

Applicant respectfully requests that this amendment be entered because it places the claims in condition for allowance and does not raise issues that haven't been previously discussed.

Claims 4-20, and 37-42 remain pending after entry of this amendment. Claims 37 - 42 were added herein. Claims 4-10, and 12-20, were amended herein. Favorable reconsideration is respectfully requested in light of the amendments and remarks submitted herein.

Applicant notes that the objection to claim 8 has been withdrawn.

Applicant also notes that the rejections of claims 5, 8-10, 12-13, and 15-18 and claim 3 have been withdrawn.

Claims 1 and 2 and 4-20 remain rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 and 20-23 of U.S. Patent No. 6,414,036. Although Applicant does not necessarily agree, Applicant includes herewith an executed terminal disclaimer and the required fee. Based on this, Applicant respectfully requests that this rejection be withdrawn.

Applicant also notes that the rejections of claims 1, 4, and 11; 1 and 19-20; 1, 4, 8-9, 12, and 14-20; and 1, 2, 4, and 10-11 have all been withdrawn.

However, claims 3 and 13 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Ropapharm in view of Remington's Pharmaceutical Sciences, Fifteenth Edition, 1975, pp. 1405-1412 (Remington) and similarly, claims 1, 4, 8-9, and 19-20 are now rejected under 35 U.S.C. § 103(a) for the same reasons.

### Claim Amendments

Claim 1 has been cancelled herein, and claims 2 and 3 were already cancelled. Based on the Examiner's rejections, claims 5-7, 12, and 14-18 are subject only to the obviousness-type double patenting rejection. Assuming that the executed terminal disclaimer is entered and overcomes this rejection, which Applicant respectfully asserts it does, these claims should be allowable if rewritten in independent form.

Claim 5 is now independent and includes the limitations of intervening claim 1. Claims 4, 6, 8-13, and 19-20 are now dependent on claim 5. Claim 7 has been amended to be independent and includes all of the limitations of intervening claim 1. Claims 37-42 are

dependent on claim 7. Claim 14 is independent and contains all of the limitations of the intervening claims. Similarly, claim 15 is independent and contains all of the limitations of the intervening claims. Claims 16-18 are dependent on independent claim 15.

### Conclusion

Therefore, based on the executed terminal disclaimer and the claim amendments contained herewith, Applicant respectfully asserts that the pending claims, claims 4-20 and 37-42, are now in condition for allowance.


In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Date:

April 26, 2004

  
Anna M. Nelson  
Reg. No. 48,935  
AMN/Vh